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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

10 NATIVE VILLAGE OF POINT HOPE, et  
11 al.,

12 Plaintiffs,

13 v.

14 U.S. ENVIRONMENTAL  
PROTECTION AGENCY,

15 Defendant,

16 And

17 TECK ALASKA INCORPORATED, et  
18 al.,

19 Intervenor-  
20 Defendants

CASE NO. C11-667 MJP

ORDER GRANTING MOTION TO  
TRANSFER

21 This matter comes before the Court on Intervenor-Defendants' motion to transfer. (Dkt.  
22 No. 42.) Having reviewed the motion, Plaintiffs' opposition (Dkt. No. 43), the reply (Dkt. No.  
23  
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47), and all related papers, the Court GRANTS the motion. The U.S. Environmental Protection Agency has not taken a position on the matter.

### Analysis

#### A. Standard

The parties agree that this matter can be litigated in Alaska. (Dkt. No. 47 at 2.) The Court thus finds this aspect of the venue requirements satisfied. See 28 U.S.C. § 1391(e).

A motion to transfer venue under § 1404(a) requires the court to weigh multiple factors to determine whether transfer is appropriate. The court may consider: (1) the plaintiff's choice of forum; (2) the convenience of witnesses and the parties; (3) the familiarity of the forum with the applicable law; (4) the ease of access to evidence; (5) any local interest in the controversy and contacts with the chosen forum, and (6) the relative court congestion and time to trial in each forum. Jones v. GNC Franchising, Inc., 211 F.3d 495, 498-99 (9th Cir. 2000). "The question of which forum will better serve the interest of justice is of predominant importance on the question of transfer, and the factors involving convenience of parties and witnesses are in fact subordinate." Wireless Consumers Alliance, Inc. v. T-Mobile USA, Inc., No. C03-3711 MHP, 2003 WL 22387598, at \*4 (N.D. Cal. Oct.14, 2003). The Intervenor-Defendants bear the burden of showing the inconvenience of litigating in this forum. Decker Coal Co. v. Commonwealth Edison Co., 805 F.2d 834, 843 (9th Cir. 1986).

#### B. Alaska is the Proper Venue

After considering all of the above factors, the Court finds that this case should be transferred to Alaska.

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1           1.       Plaintiff's choice of forum is outweighed by the ties to Alaska

2           Generally the plaintiff's choice of form is accorded deference and "should rarely be  
3 disturbed." Sec. Investor Prot. Corp. v. Vigman, 764 F.2d 1309, 1317 (9th Cir. 1985). However,  
4 where the forum has little connection to the action, the Court may accord less deference to the  
5 plaintiff's choice of venue. Saleh v. Titan Corp., 361 F. Supp. 2d 1152, 1157 (S.D. Cal. 2005)  
6 ("[N]umerous courts have given less deference to the plaintiff's choice of forum where the action  
7 has little connection with the chosen forum.")

8           Plaintiffs' choice to litigate this matter in this District is accorded little deference in light  
9 of the substantial impact this case will likely have in Alaska and the few connections it has to  
10 this District. The Intervenor-Defendants make a strong argument that Alaska has greater ties to  
11 this case than Washington or this District's residents. The case involves a challenge to water  
12 quality standards of the Red Dog Creek, a creek unique to Alaska. The water quality decision  
13 only applies to the Red Dog Creek, and it implicates an Alaska state agency's underlying  
14 administrative decision. The Intervenor-Defendants are two Alaska corporations operating on  
15 the Red Dog Creek. Against these contacts to Alaska, Plaintiffs identify only two ties to this  
16 District. First, the EPA's regional office where the dispute water quality standard was adopted is  
17 in Seattle. Second, some of Plaintiffs' constituents reside in Western Washington. However,  
18 the numbers are relatively small: fewer than 3 percent of one group's members and 1 percent of  
19 the other live in this District.

20           The Court finds that the ties here clearly favor Alaska as the preferred venue, despite  
21 Plaintiffs' choice of forum. The impact of the litigation will be felt primarily in Alaska, while  
22 the only significant tie to Seattle is the fact the EPA's decision was made here.

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Having considered all of the above factors, the Court finds this matter should be litigated in Alaska. See Jones, 211 F.3d at 498-99. The local Alaskan interests far outweigh the Plaintiffs' decision to file suit in this District, whose ties to the matter are attenuated. Though the remaining factors do not necessarily favor the transfer, they also do not suggest any reason why the matter cannot be efficiently and effectively decided in Alaska.

The Court GRANTS Intervenor-Defendants' motion to transfer. The matter should be litigated in Alaska, whose ties to this action substantially outweigh the Plaintiffs' decision to file suit in this District. The Court therefore TRANSFERS this case to the United States District Court for the District of Alaska.

Dated this 21st day of September, 2011.

Marsha J. Pechman  
United States District Judge